

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JOHN C. BOHLINGER**, on February 18, 2003 at 2:55 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Chairman (R)
Sen. John Esp, Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Brent R. Cromley (D)
Sen. Kelly Gebhardt (R)
Sen. Bill Glaser (R)
Sen. Rick Laible (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)
Sen. Jeff Mangan (D)

Members Excused: Sen. Jim Elliott (D)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 393, 2/13/2003; SB396,
2/13/2003; SB 426, 2/13/2003; SB
384, 2/13/2003
Executive Action: SB 384; SB 340; SB 343

SENATOR BOB KEENAN, SD 38, Big Fork, said that today was the last day for committees to request general bills, and he wanted the committee to request a resolution for Taiwan's acceptance into the World Health Organization. He said Taiwan was not a member of the United Nations and they were being ostracized from the World Health Organization. He maintained they had an outbreak of some disease and lost nine children, the World Health Organization could not respond and come in with the medicine that was needed because the People's Republic of China blocked that through their veto power. So Taiwan has asked us to join with a number of other states in getting a resolution passed for Taiwan's introduction into the World Health Organization.

SENATOR JOHN TESTER, SD 45 Big Sandy, said he wanted to state that Taiwan had been a great ally to the United States and he thought it was fair to encourage that they belong to the World Health Organization, and that this resolution would help in part in that endeavor, and he would appreciate a committee bill to that effect.

Motion/Vote: SEN. CROMLEY moved that A COMMITTEE BILL BE REQUESTED DO PASS. Motion carried unanimously.

SENATOR BOB KEENAN said he also had a request from the Council on State Governments West asking for a resolution supporting action plan for public land and education, commonly referred to as APPLE. He said it had been unanimously adopted by the executive committee of CSG West and the Western Governor's Association. He said the resolution would create a broad based coalition in support of just compensation for public schools in western states where the federal government owns nearly 52% of the land within its borders. He said the details of this for Montana specifically was that 576 million dollars in one time revenue would come to Montana and 196 million dollars in annual recurring revenue would come for support of the schools. He said this just compensation would allow western states to be on equal footing with the rest of the nation in their efforts to provide education for their citizens. He read a letter from **SENATOR MCCARTHY** endorsing the proposal.

SENATOR MIKE WHEAT, SD 14, Bozeman asked if this was a companion resolution that asked the federal government to help support our schools because they own so much federal land in our state.

SENATOR KEENAN replied this would be like payment in lieu of taxes for federal land, where we do not receive education dollars for those lands because they are not subject to local school levies.

SENATOR WHEAT asked if other western states already adopted resolutions similar to this. Secondly if we in fact adopt this and send it off to the federal government and they responded to our plea, would that money be earmarked specifically for education.

SENATOR KEENAN said he had draft language from the state of Utah but could not say whether they had passed it. He also had language that was passed by CSG West. He said it was earmarked for education.

Motion/Vote: SEN. LAIBLE moved that A COMMITTEE BILL BE REQUESTED DO PASS. Motion carried unanimously.

HEARING ON SB 393

Sponsor: SENATOR SAM KITZENBERG, SD 48, Glasgow

Proponents:

Harold Blattie, MT Association of Counties

Opponents:

None

Opening Statement by Sponsor:

SENATOR SAM KITZENBERG, SD 48, Glasgow said he had a long time county commissioner come to him before he came to the session and ask if he would introduce this bill for her. He said this bill provided for alternative methods of sale of county real estate based upon the type and location of the real estate. He said what it amounted to was opening up optional methods of selling county land. He said currently, you can sell county land by competitive sale. The BLM has three methods of selling land, and the thought was it would work in the counties best interest if counties had the same three options. One would be competitive sale or public auction. The second option would be modified competitive sales. The third option would be direct sale. He explained how the options would work.

Proponents' Testimony:

Harold Blattie, MT Association of Counties said this would be a great help to counties. They were in support of the bill.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SENATOR WILLIAM GLASER asked if this was both surplus county property and tax deed.

SENATOR KITZENBERG replied yes it was.

SENATOR BRENT CROMLEY said there was a definition of competitive sale in statute. He was wondering if there was a definition somewhere of what a modified competitive sale was, and what a direct sale was.

SENATOR KITZENBERG said he was not sure.

Closing by Sponsor:

SENATOR KITZENBERG said he thought the definitions were probably found on the second page. He thought it was a fairly simple bill that would offer counties extra option in selling land. He thanked them for their time and attention.

HEARING ON SB 396

Sponsor: **SENATOR GARY PERRY, SD 16, Manhattan**

Proponents:

Art Wittich, Attorney

Mark Evans, South West Montana Building Industry Association

Byron Roberts, Montana Building Association

Richard Smith, R.J. Association

Opponents:

Mike Kadas, City of Missoula

Alec Hansen, League of Cities and Towns

Marsha Youngmen, City of Bozeman

Linda Stoll, MT Association of Planners

Clark Johnson, City of Bozeman

Tim Burton, City of Helena

Jani McCall, City of Billings

Harold Blattie, MT Association of Counties

JD Lynch, Butte Silver Bow

Tim Davis, MT Smart Growth Coalition

Opening Statement by Sponsor:

SENATOR GARY PERRY, SD 16, Manhattan said SB 396 would require delegation for a local government to impose or exact a monetary fee or a property dedication as a condition of the approval of any subdivision, sight plan, annexation, building permit, or other land use that is subject to approval by the local government.

Proponents' Testimony:

Art Wittich, Bozeman Attorney said there were two types of local governments in the state of Montana, one is a general governing power and one is a self governing power. Self Governments in Montana can do anything that they are not prohibited from doing by the state legislature. He said they had seen a number of self governing communities in Montana coming up with creative means to finance various public infrastructure. He maintained these fees amounted to more taxes. He said in order to fund public goods, they have found unique segments of the public to pay for those, when they should be spread out over the whole tax base. He said this bill would tell those self governing powers that unless the legislature has granted them the authority to exact those types of fees, they are not allowed to charge them. He turned in some information. **EXHIBIT (los36a01)**

Mark Evans, South West Montana Building Industry Association said they were the driving force behind this bill. He said they strongly support the bill. He said this would give local governments some clarity as to what they can and cannot do. He strongly urged the committee to support the bill.

Byron Roberts, Montana Building Association said they were in support of this legislation. He said it stemmed from a great deal of frustration in the Bozeman community with builders and developers. He said these fees had become a way of exacting taxes from new construction in Montana. He said they were involved in a lawsuit in Bozeman over this issue. He urged the passage of SB 396.

Richard Smith, R.J. Association said the bottom line was that impact fees make it very difficult to build any type of affordable housing. He said if they continue to let Bozeman be an experimental base where anything is accepted, the cost of housing would continue to go up.

Opponents' Testimony:

Mike Kadas, City of Missoula maintained these were not taxes, they were fees. He said taxes were applied uniformly to everyone in the community, fees are applied to entities that create growth and specifically cause impacts to the rest of the community. He said under Federal Supreme Court Law, the local government in order to assess any fee has to prove proportionality and NEXUS. He said they have to show that new piece of construction is approximate to what they are claiming the fee should be, and they have to make sure that they only assess them for their proportionate share. He said this legislation was coming out of Gallatin County. He said problems happen when there is lots of growth. Communities are impacted by large growth. He said local governments have to do something, because if they don't the costs get pushed back on the existing taxpayers. He said communities are not able to maintain the current level of services to existing tax payers because of the cap on property taxes. He said local governments need the flexibility to deal with these sort of problems. He said there was plenty of oversight in federal law, and federal court case jurisdictions. He said the legislature should not figure this out in an half hour hearing.

{Tape: 1; Side: B}

Alec Hansen, League of Cities and Towns said this was an important issue for all cities in this state. He said this bill was to deal with a problem in Gallatin county but would create other problems in other cities and towns across the state. He said the city of Missoula was working on an impact fee program. He maintained it was 67 pages long and was carefully considered and detailed analysis of what was every bodies fare share of the cost of development. He said there was an extreme amount of fairness built into this. He said everyone would pay their fair share. He said someone has to stand up for the people who live in the established neighborhoods. He said this bill was about fairness, equity and balance. He did not think you could deal with an issue this complicated, and this broad in it's application in a half hour hearing.

Marsha Youngmen, City of Bozeman said it was funny that if the fees are so erroneous in Bozeman that they had just experienced a decade of record growth which shows no sign of letting up and have more affordable housing built than in any time in Bozeman's history. She said since they had instituted impact fees 80% of their growth had been within the city limits. She said the reason they had been able to sustain their incredible growth rate without to severely taxing their infrastructure capacity was they had been able to work creatively with developers to determine the best methods to address the impacts of their development on city services and infrastructure so the results are good for both

development and the community. She said this bill was an anti-growth bill that would gut their capacity and their flexibility to work things out with developers in ways that would allow them to sustain further major growth. She said the language was confusing. She wondered if there would still be sufficient mechanisms available to respond to community infrastructure needs in a timely and fair fashion that protects public safety and the smooth operation of commerce. She hope they would oppose the bill.

Linda Stoll, MT Association of Planners asked the committee to follow the money. She said if new growth and development did not pay for itself then who would make up the difference. She argued that the fees contained in this bill are the ones that help local governments, move the costs of new developments to where they belong. Otherwise existing rate payers would make up those costs. She urged them to oppose the bill.

Clark Johnson, City of Bozeman said his point was that they let the community speak to them through public hearings, about what should be in growth policy. This bill takes away their ability to implement what the legislature required them to do in growth policy. He said the bill was in strict confrontation to the rest of the subdivision and planning regulations that are in law. He said this bill took away self governing powers because it would not allow them to do anything without specific authorization from the legislature.

Tim Burton, City of Helena said he was in opposition to the bill for all the reason already stated.

Jani McCall, City of Billings said they were strongly opposed to the bill for the same reasons that had been stated. She said it was poorly written and had many unforeseen ramifications.

Harold Blattie, MT Association of Counties said they opposed the bill.

JD Lynch, Butte Silver Bow said they were opposed to the bill.

Tim Davis, MT Smart Growth Coalition said they were opposed to the bill for the reasons previously stated.

Questions from Committee Members and Responses:

SENATOR RICK LAIBLE asked if this bill were to pass, would developers still pay for those infrastructure items that were required as a part of NEXUS and proportionality.

Byron Roberts replied yes, that was part of subdivision law.

SENATOR LAIBLE so this bill does not affect subdivision regulations that every community already have.

Byron Roberts said no it does not. He said it would effect impact fees specifically.

SENATOR LAIBLE asked what drove this problem.

Byron Roberts believed this was being driven by what they believed to be fees that are charged over and above what in fact the impact is that is caused by a particular development.

SENATOR MIKE WHEAT asked Alec Hansen why he was shaking his head.

Alec Hansen said he thought there were people there that might have a different rendition of what Byron Roberts had said.

Clark Johnson said impact fees were for future use items. You charge an impact fee and take from the fund to build things that have a rational NEXUS to the developments. He said developments do pay impact fees and nothing may happen for awhile. He said when the impact fee fund gets large enough to purchase whatever that capital improvement is, then you would take those funds and purchase whatever the capital improvement was. The idea behind impact fees is to get ahead of growth. He said he did not realize the bill was so much about impact fees, but that the way it was written was they could not ask a developer to provide for transportation, or storm water retention, or those type of things.

SENATOR LAIBLE asked if NEXUS and proportionality items in his communities were covered within subdivision regulations.

Clark Johnson said yes they are covered in the regulations and attached to an impact fee study. The impact fee study then becomes part of the regulations.

SENATOR JOHN ESP said **Marsha Youngmen** had talked about the fact that these fees help keep them from raising taxes on the residents within their local jurisdictions. He asked the sponsor to comment on that.

SENATOR PERRY said he did not believe that to be correct. He referred the question to **Mr. Wittich**.

Art Wittich asked if the question was, do fees prevent tax increases.

SENATOR ESP said yes. Or does it prevent further tax increases on folks that are already living in town, or fee increases for services.

Art Wittich replied they whole idea was that growth should not be subsidizing existing residents, and existing residents should not be subsidizing growth. He did not think that this bill was not as much about impact fees as much as it was about fairness. He said this bill says that unless the legislature had delegated the power to local governments they cannot do it. He said there should be rules to prevent one entity subsidizing the other. He said right now you can't trust the fact that those rules are being generated by they local governments, because they are over reaching.

SENATOR ESP said then it is your contention, at least in the case of your area that the fees are not in NEXUS or proportionality to the services delivered.

Art Wittich replied that it should be clarified that this was not a Bozeman bill, impact fees are being charged in other cities. He said the city of Bozeman had collected 15 million in the past five years and only spent less than a million because of litigation. He said the town was still growing and needs were still being met.

SENATOR ESP said the folks in Missoula outlined the process they went through to develop impact fees, he wondered if he agreed that was a fair way to do it.

Art Wittich said it was wonderful that they city of Missoula had engaged in a process with the people they would charge fees on. He said not every community had done it the same way Missoula had.

SENATOR CAROLYN SQUIRES said Missoula had been at the legislature for 15 years just as Bozeman was now having the same types of discussions, and they were told to go home and solve their own problems. She said Bozeman was where Missoula was sixteen years ago, but she felt they needed to go home and deal with these problems.

{Tape: 2; Side: A}

Closing by Sponsor:

SENATOR PERRY said they were not saying that there could be no impact fees. He maintained they were saying it was the state legislatures responsibility to establish for the local

governments what is fair, before the cities decide. He asked them to take a good look at the bill. He said the power to authorize a tax, had to be delegated by law. He said he had his business in Bozeman, but chose to purchase land outside of the cities jurisdiction to put up a 30,000 square foot facility. He said they had 20 employees. He said that economic development went to Belgrade, because he could not deal with the constraints of the bureaucracy that was going on in Bozeman. He said other business had done the same. He said if you want economic development in this state, fairness was a key issue. He thanked them for a good hearing.

HEARING ON SB 426

Sponsor: SENATOR GARY PERRY, SD 16, Manhattan

Proponents:

Mark Evans, Southwest Montana Building Industry Association

Richard Smith, R.J. Association

Art Wittich, Bozeman Attorney

Byron Roberts, Montana Building Industry Association

Opponents:

Vern KlingonSmith, Affordable Housing Advisory Board

Tim Burton, City of Helena

Judy Smith, HOMEWORD

Marsha Youngmen, City of Bozeman

Alec Hansen, League of Cities and Towns

Mike Kadas, City of Missoula

Tim Davis, MT Smart Growth Coalition

Opening Statement by Sponsor:

SENATOR GARY PERRY, SD 16, Manhattan said this bill was before the committee because of some actions taken by the city of Bozeman that needed to be addressed. He said some cities in Montana have been requiring people who desire to subdivide or develop their land to set aside a certain percentage of the land or similar amount of money to provide for affordable housing, however there are no current provisions in state law which define affordable housing or allow for such exactions by cities. This bill would prohibit cities from requiring the dedication of land or the payment of a fee for subsidized housing as a condition for approval of subdivisions, building permits, or annexation. He said the prohibitions would be included in both the subdivision and the annexation laws. He went through the sections of the

bill. He told the story of Walmart wanting to expand in Bozeman. He said 400,000 dollars was extorted from Walmart for the purpose of the cities use in its discretion in providing housing in whatever manner it chose. He said Home Depot had to pay 500,000 dollars for housing. He said business could not come into the Bozeman community without paying this fee. He turned the hearing over to proponents and opponents.

Proponents' Testimony:

Mark Evans, Southwest Montana Building Industry Association said this issue originates out of the city of Bozeman. He said demands were being made on developers to set aside 10 to 15 percent of all the lots they wish to subdivide for the purpose of affordable housing. He did not see a basis in state law for these demands, and they were asking the legislature to take this issue into hand and take care of what was happening in Bozeman. He did not think there was rational NEXUS with this program. He said developers have to recover their costs of giving up these lots, and they pass those costs on and make the problem of affordable housing even worse. He said if it is cheaper to build in the county people will build their and that creates sprawl. He asked the committee to support the bill.

Richard Smith, R.J. Associates said as they had watched the evolutions of requirements for subdivisions in Gallatin County and the City of Bozeman it has become obvious that in many situations they are asking for one group of people to bear the tax burden for everyone. He said they are asking one group of people who may want to move to a better house in a better location to bear the full burden of this amount of affordable housing somewhere else. He said this was not right, all the public should share in that cost.

Art Wittich, Bozeman Attorney said this bill was about fairness. He handed out some information. **EXHIBIT(1os36a02)**

Byron Roberts, Montana Building Industry Association said you don't make housing more affordable by taxing, regulating or taking land. He said if the public has an interest in purchasing land or lots, or financing low cost housing then they should procure property or subsidize lower income housing. By exacting land or fees from builders or developers constitutes a taking and adds to the costs of every home constructed in the community. He urged that they pass SB 426.

Opponents' Testimony:

Vern KlingonSmith, Affordable Housing Advisory Board he said they tend to think of affordable housing being for the working poor. He said this is true, the folks with the most serious need earn about 30% of the area's median income. Affordable also means families around the 80% area of the median income. Such as policeman, firemen, teachers, and so on. He said the high cost of land increases the cost of home beyond these peoples ability to make mortgage payments. He said Bozeman had an advisory board on affordable housing that works with the city commission. He said a study from this advisory board found that 50% of Bozeman households are having trouble finding housing because the cost is beyond their income. He said 48% of renters pay more than 30% of their income on rent. He said the private market has been unable to respond to these needs, because builders can not make a profit building housing affordable to people at less than median income. City governments, non profit and for profit developers need to work together to address these needs, and that is what has been happening in Bozeman since the mid 1990's. He said the advisory board has recommended to the city on how to meet these critical needs. Most of the recommendations involve incentive based approaches rather than a set of requirements on developers and builders. However one of the key recommendations does include a requirement that at the time of annexation, land should be set aside for affordable housing construction, or money given to the community affordable housing fund, only if developers are still able to make a good profit. He said SB 426 would prohibit this kind of approach. He said Bozeman needed affordable housing for it's key employees, such as emergency workers, teachers as well as those who flip hamburgers and tend to blue light specials. He said SB 426 would impede the progress they had made to provide housing to those they count on, please vote against it.

Tim Burton, City of Helena said they were in opposition to the bill. He said it had been mentioned that it was not a Bozeman issue but he had not seen any developers from around Montana. He said Helena has a good relationship with their developers. He said these issues seem to be a localized Bozeman problem. He said that Helena was not considering impact fees. He reiterated the were in opposition to the bill.

Judy Smith, HOMEWORD said these were serious issues. She emphasized that affordable housing was a public goods. She said the cost of not providing affordable housing was great to communities. She said the cost of school and health issues, transportation, and increase of homeless families are all costs to the communities. She explained that local governments need tools for affordable housing. She said it needed to be a win win situation. She encouraged the committee to vote against the bill.

Marsha Youngmen, City of Bozeman said they had been approving residential subdivisions, PUD's and sight plans as fast as they can in Bozeman. She said a record amount of housing had been built in recent years. She said none of it that was market based has been affordable to those that make less than median income. She said market approaches have not been enough so they have been trying to be creative in their community and partner with the development industry and non-profit organizations to meet local housing needs. She said they were not talking about socking the development industry with inclusionary zoning, though that is what communities do all over the country, is to expect that a certain percentage of land will be set aside for affordable housing to make sure there is a good mix of housing for people who work in your community. She asked that they let communities fix these problems locally. The approaches they are taking are necessary if they are not going to have people who are desperately overpaying and are unable to make ends meet, or are actually homeless because they can't afford the local housing market. She said they became a self-governing city because they thought they would have more flexibility and more creative options available to meet these kinds of needs. She said this would neutralize the effectiveness of self government in regard to affordable housing if this bill passes. She maintained they needed choices.

Alec Hansen, League of Cities and Towns said this bill would stifle the ability of cities to deal with local problems. She said these are good people who are working hard to solve serious local problems. Trust these people to do their job.

Mike Kadas, City of Missoula repeated some of what he said in the last hearing. He said measures had to be taken to maintain the character of the community. He said they needed these tools to help people find housing. He asked they not support the bill.

Tim Davis, MT Smart Growth Coalition said they were in opposition to the bill, and he submitted a letter from Mike Jopek.

EXHIBIT(los36a03)

{Tape: 2; Side: B}

Questions from Committee Members and Responses:

None

Closing by Sponsor:

SENATOR PERRY said in extracting housing fees from business, what are the source of those funds. The business pass on those costs to the consumers in the community, maybe in lower wages, or no

health care benefits or retirements. He said these issues needed to be looked at. Who decides what is affordable housing. He said we all want people to own homes. The question is how best to achieve it. He said there were two ways to provide housing. One you can redistribute wealth, or two you can create jobs, and help businesses stay in business and provide incomes for people so they can provide for themselves.

HEARING ON SB 384

Sponsor:

SENATOR JEFF MANGAN, SD 23, Great Falls

Proponents:

Tom Daubert, US Filter Operating Services

Jerry Driscoll, MT State ALF CIO

Opponents:

None

Opening Statement by Sponsor:

SENATOR JEFF MANGAN, SD 23, Great Falls said this bill dealt with 15 hard working employees at the sewer plant in Great Falls. He said this bill would allow a city to extend, renew, or amend a contract or series of contracts for the supervision or operation of a physical plant that provides water, sewer, or power services, without proceeding under the bidding procedures provided for. He explained the bill was permissive and right now only effected Great Falls. He said the reason he was carrying this bill was every four years these people don't know if they will have jobs or not. He said that is not a good position to be in. He said the city was neutral on this.

Proponents:

Tom Daubert, US Filter Operating Services, said they had been operating the waste water plant for the city of Great Falls. He said Great Falls was the only city that had gone to the private sector for any of the category of contracts effected by this legislation. He said in the 26 years they have used US Filter for this work, Great Falls has had far and away the best environmental performance of any waste water treatment plant nationally. He said they have also saved quite a bit of money

using the private sector. This bill would allow it to be at the cities discretion whether to have another bid process or not.

Jerry Driscoll, MT State ALF CIO said employees were worried about keeping their jobs, and about health benefits and pensions. He said another incentive would be, that if everyone is doing a good job, the city won't put it out to bid. He hoped they could pass the bill.

Questions from Committee Members and Responses:

SENATOR WHEAT asked if his company employed the people or if they were employed by the city.

Tom Daubert replied they were employees of US Filter.

SENATOR WHEAT said if the city put it out to bid and a competitor won, would the employees move somewhere else, or would they be forced to stay in Great Falls without a job. He wondered if they had job security with US Filter.

Tom Daubert said he was unable to answer that. He said he did not think US Filter would want to let them go if there was a way not to. He said at the same time these people had been in Great Falls for a long time and may not have come to Great Falls with US Filter. They would probably want to stay there. It could be possible that the competitor that won the bid would hire them.

SENATOR WHEAT said competitive bidding was in place to get the best price you can for the taxpayers. He was concerned that they may be taking away the ability of the public to see there was a competitive bidding process in place and opens the door for one contractor to continue to contract with the city. That may be good, but he asked they sponsor to respond.

SENATOR MANGAN said he shared those concerns and did not take this lightly by any means. He said this was a very specific narrow strip. He said this was the only facility in Montana right now. He reiterated that it was permissive, so if the city wants to go to bid they can. He said if there were issues with the constituents the city would certainly revisit this.

SENATOR KELLY GEBHARDT asked about power services. Does that mean the power plant that the city owns and a plant a private individual put up.

SENATOR MANGAN said it was limited to a local government only for those specific areas. Currently no one else falls under this except the sewer plant in Great Falls. He said if a city or town

purchases or develops a wind plant for example, they could use this only after they went through a competitive bid and the process lasted for at least five years.

SENATOR GEBHARDT said this did not allow anyone else to come in and be involved in the bidding process.

SENATOR MANGAN said not necessarily. Mayors and city commissions change. He thought if you did a good job and you were proving yourself that would be incentive for the city to keep using you, but knowing the way most municipalities operate, if they were not doing a good job, they city would let this go to bid.

Closing by Sponsor:

SENATOR MANGAN said thank you for the hearing and he would be glad to answer questions in executive action if he could.

EXECUTIVE ACTION ON SB 384

Motion: SEN. GLASER moved that SB 384 DO PASS.

SENATOR GLASER said you have organized labor saying they want the bill, management saying they want the bill, and the city is getting permissive language. He could not think of a better situation.

SENATOR ESP said this could allow an ongoing relationship that could last for a long time that might not be in the best interest of the taxpayers.

Vote: Motion carried 9-1 with ESP voting no.

SENATOR BOHLINGER passed out some information from Linda Stoll.
EXHIBIT (los36a04)

EXECUTIVE ACTION ON SB 340

Motion: SEN. GEBHARDT moved that SB 340 DO PASS.

Motion: SEN. GEBHARDT moved that AMENDMENT SB034001.ALK DO PASS.

Discussion:

Leanne Kurtz explained the amendment.

SENATOR ESP asked how they came up with two years.

SENATOR WHEAT said **Tim Davis** had gotten together with **Senator Grimes** and they discussed these amendments. He said it was his understanding that these amendments were agreed upon between **Senator Grimes and Tim Davis**.

SENATOR BOHLINGER said that was his understanding.

SENATOR GEBHARDT said that was because these small communities that have part time help and planning boards that meet once a month can't get done in time.

SENATOR ESP said he was not sure some would get done in two years.

SENATOR WHEAT asked about the House Bill that extended the time for growth policies.

{Tape: 3; Side: A}

Leanne Kurtz replied that was House Bill 511.

Linda Stoll said this bill talked about subdivision regulations and House Bill 511 talked about adopting a growth policy.

Motion: **SEN. ESP** moved **SEGREGATE THE AMENDMENTS 1,2,3,4 AND 6** .

Discussion:

SENATOR ESP explained all that does is leave section two in the bill. He thought that would do what the sponsor intended, which was to say what a growth policy was not.

SENATOR CAROLYN SQUIRES said she was in opposition to that. She said they were laying a road map down for people, it may not happen in some smaller towns, but it is happening in larger towns that are growing. She said this gives the drive to the larger cities to get themselves going on a growth plan to deal with the issues that have been before this legislature.

SENATOR ESP said what he was suggesting would not have anything to do with the time frames or the growth policy itself, it would just clearly states in laws what a growth policy was and was not.

SENATOR SQUIRES said it seemed to her, if you took 1,2,3,4 and 6 out, then it would wipe out the whole section in it's entirety, what is left. She said if it was negative in encouraging growth plans, she did not support it.

SENATOR WHEAT asked **Linda Stoll** to explain what **Senator Esp's** motion would do to the bill.

Linda Stoll said she absolutely knew that **Senator Grimes** wanted to do two things. He wanted to make sure his language clarified that growth policies were not regulatory and secondly he wanted was to give local governments additional time to bring their subdivision requirements into compliance with the growth policy. She thought Senator Esp was trying to put the bill in the order that Senator Grimes wanted.

SENATOR WHEAT asked if **Senator Esp** was making the substitute motion on behalf of **Senator Grimes**.

SENATOR ESP said he was going by memory of what he said at the hearing.

Linda Stoll said as she understood it, the amendments that you have before you don't do what **Senator Grimes** wanted. She went through the issues they wanted taken care of.

SENATOR ESP withdrew his motion.

SENATOR GEBHARDT withdrew his motions.

SENATOR BOHLINGER announced they would reconsider this bill tomorrow at noon.

EXECUTIVE ACTION ON SB 343

Motion: **SEN. LAIBLE** moved that SB 343 DO PASS.

Motion: **SEN. LAIBLE** moved that AMENDMENT SB034301.ALK DO PASS.

Discussion:

SENATOR LAIBLE said the bill might have been to stringent, so he lowered the percentages to 85%.

SENATOR SQUIRES said she appreciated that he lowered it but she wanted it even lower.

SENATOR JERRY BLACK asked how many freeholders were involved in the situation.

SENATOR LAIBLE said he couldn't be exact, but he had 10 or 12 letters in opposition to this. He thought the public notification may not be working well when it came to this.

SENATOR BLACK asked what percentage of land the land owner held.

SENATOR LAIBLE said less than 60%. He said that was the problem with the existing legislation. If a rancher had 200 acres of land the residents around him each have 10 acre parcels, they would just find out how many 10 acre parcels they needed to have a voluntary zone. He thought by doing this, it made it more of a voluntary district by allowing more people to be involved.

SENATOR GLASER said that **SENATOR ESP** said he supported the amendment as he was walking out the door.

SENATOR GEBHARDT said he wondered about the situation in the Bitterroot with the laws we have now, it should not have applied to agriculture. He thought something went wrong in the system we have now.

SENATOR LAIBLE said it went back to that same issue. He said it might have been agriculture, but the question comes down to do the neighbors have the right to form a voluntary zoning district that says a rancher or farmer can never develop because they want open space.

SENATOR GEBHARDT said if a person owned forty acres they can form their own district, and do what they want on it.

Vote: Motion carried unanimously.

Motion/Vote: SEN. LAIBLE moved that SB 343 DO PASS AS AMENDED.

Motion carried 6-5 with BOHLINGER, CROMLEY, MANGAN, SQUIRES, and WHEAT voting no.

ADJOURNMENT

Adjournment: 5:10 P.M.

SEN. JOHN C. BOHLINGER, Chairman

PHOEBE OLSON, Secretary

JB/PO

EXHIBIT (los36aad)